

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Donnie P. Blanchard, #320400,

Petitioner,

v.

Tim Riley, Warden of Tyger River  
Correctional Institution,

Respondent.

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CIVIL ACTION NO. 9:12-1204-CMC-BM

**REPORT AND RECOMMENDATION**

This action has been filed by the Petitioner, an inmate with the South Carolina Department of Corrections, pursuant to 28 U.S.C. § 2254. An Order authorizing service of process was entered on May 9, 2012.

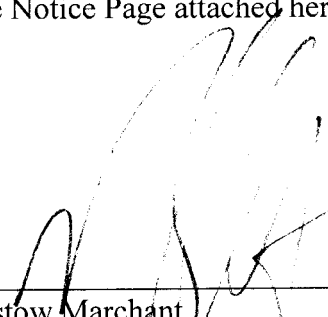
On July 6, 2012, Petitioner filed a motion for summary judgment, arguing therein that he was entitled to summary judgment because the Respondent had failed to timely respond to his Petition. However, a review of the docket shows that Petitioner's motion is without merit. Respondent was served with process effective May 9, 2012. See Court Docket No. 11. Petitioner states in his motion that the response was due to be filed by June 28, 2012. However, the docket clearly reflects a filing deadline of July 2, 2012. See Court Docket No. 7. On July 2, 2012, which was the date Respondent's response was due, the Respondent filed a motion for an extension of time to respond to the habeas petition. Respondent's counsel noted in this motion that he has had to handle a number of other commitments in both State and Federal Court that had precluded a timely

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completion of the Respondent's return, and that he had not been able to collect all of the records, prepare necessary copies, gather information, and read the State Court record in order to make a proper return. The Court granted Respondent's motion, setting a new deadline of August 1, 2012 to respond to the petition. See Court Docket No. 14.<sup>1</sup> Additional extensions have been granted since that time. See Court Docket Nos. 21 and 26.

Therefore, it is recommended that Petitioner's motion for summary judgment be **denied**.

The parties are also referred to the Notice Page attached hereto.

  
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Bristow Marchant  
United States Magistrate Judge

September ?, 2012  
Charleston, South Carolina

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<sup>1</sup>Petitioner filed a motion for reconsideration of this Order, which was denied. See Court Docket No. 17.

### **Notice of Right to File Objections to Report and Recommendation**

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Court Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310 (4<sup>th</sup> Cir. 2005).

Specific written objections must be filed within fourteen (14) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The time calculation of this ten-day period excludes weekends and holidays and provides for an additional three (3) days for filing by mail. Fed. R. Civ. P. 6(a) & (e). Filing by mail pursuant to Fed. R. Civ. P. 5 may be accomplished by mailing objections to:

Larry W. Propes, Clerk  
United States District Court  
Post Office Box 395  
Charleston, South Carolina 29402

**Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation.** 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985).